THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION Nos. 4646 and 4834 OF 2006

Dated:13.04.2006

Writ Petition No.4646 of 2006

BETWEEN

Dasharatha Reddy

…PETITIONER

AND

The Joint Collector-II, Ranga Reddy District, Khairathabad, Hyderabad and others.

Writ Petition No.4834 of 2006

BETWEEN

B.Madhav Reddy and others

….PETITIONERS

AND

The Joint Collector-II, Ranga Reddy District at Khairatabad, Hyderabad and others.

….RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION Nos. 4646 and 4834 OF 2006

COMMON ORDER:

In both these writ petitions, the order, dated 28.01.2006, in Case No.D5/4111/2001, passed by the Joint Collector-II, Ranga Reddy District is assailed. The parties are referred to as they are arrayed in W.P.No.4834 of 2006.

The fourth respondent and the first petitioner are brothers. They are sons of one Kista Reddy. Second petitioner is the wife of Madhav Reddy, first petitioner, and third petitioner is the daughter and petitioner Nos.4 to 6 are the sons of first petitioner. Kista Reddy succeeded to the property in Survey Nos.59, 77 and 718 admeasuring Acs.7.12 guntas situated at Devaryamjal village, Shameerpet Mandal, Ranga Reddy District under a family settlement. The first petitioner and the fourth respondent approached the Mandal Revenue Officer for necessary mutation under A.P. Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity). Be that as it is, the petitioners allege that under a Will, dated 15.04.1991, Kista Reddy bequeathed the lands in Survey Nos.59 and 718 to the first petitioner, but the fourth respondent did not get anything under the said Will. Therefore, the petitioners approached the third respondent for necessary changes/alterations in the record of rights. By proceedings, dated 07.11.1998, the names of the petitioners were recorded. Aggrieved by the same, the fourth respondent preferred an appeal before the second respondent, who by order, dated 28.04.2001, reversed the order of the third respondent. Therefore, the petitioners preferred a revision petition before the first respondent under Section 9 of the Act. In the said revision, the petitioners 1 to 4 were the petitioners and the fourth respondent and two others were the respondents. During enquiry, the first respondent found that the lands in Survey Nos.59 and 718 corresponding to old Survey Nos.62 and 680 are notified by the Government of A.P., in G.O.Ms.No.810, dated 14.10.2004, as belonging to Sri Sitaramachandra Swamy temple lands and the Government prohibited registration of the lands in purported exercise of powers under Section
22-A of the Registration Act, 1908, as amended by Andhra Pradesh Act No.4 of 1999 (A.P.Amendment Act, for brevity). Only for this reason, the first respondent by impugned order directed the Mandal Revenue Officer to carry out the mutation in favour of Sri Sitaramachandra Swamy temple, while disposing of the revision petition. Aggrieved by the said order, the legal heirs of late Kista Reddy filed

W.P.No.4834 of 2006 and Dasaratha Reddy filed W.P.No.4646 of 2006.

After hearing the learned counsel for the petitioners in both the writ petitions and the learned Assistant Government Pleader for Revenue (General), two questions require to be addressed – whether it was competent for the Government to prohibit registrations under Section
22-A of the A.P.Amendment Act? and whether only on the ground that the registration is prohibited, the first respondent could have denied the right of the petitioners and the fourth respondent?

Insofar as the first question is concerned, the legal position is now well settled. In **State of Rajasthan v Basant Nahata**, the Supreme Court invalidated Section 22-A of the Rajasthan Registration Act, 1976, which is *in pari materia* with Section 22-A of the A.P.Amendment Act. Following the same, a Division Bench of this Court comprising their Lordships the Hon'ble the Chief Justice, G.S.Singhvi, and the Hon'ble Sri Justice R.Subhash Reddy, in an unreported Judgment in W.P.No.14099 of 2003 and batch, dated 07.12.2005, declared Section 22-A of the A.P.Amendment Act as ultra vires. In view of the same, the notification on which reliance is placed by the first respondent cannot be the basis for rejecting the claim of the petitioners as well as the fourth respondent, if any.

It is the case of the first petitioner as well as the fourth respondent that their father, late Kista Reddy, succeeded to the property in question. However, the legal heirs of Madhav Reddy claimed successive rights in land situated in Survey Nos.59 and 718 by way of a Will executed by late Kista Reddy in favour of Madhav Reddy. This is seriously disputed by the fourth respondent. Therefore, the Joint Collector has to consider the said matter independently. Of course, if record shows that the land belongs to a temple, notice has to go to the said temple as well. Needless to point out, if there is a serious title dispute to the land between the legal heirs of Madhav Reddy on one hand and the fourth respondent on the other, the matter has to be resolved in a Civil Court.

For the above reasons, the impugned cannot be sustained. The same is set aside, and the matter is remanded to the first respondent to dispose of the revision petition filed by the petitioners 1 to 4 in accordance with law without reference to the notification of the Government of Andhra Pradesh in G.O.Ms.No.810, dated 14.10.2004. As the matter has been pending before the first respondent since 2001, it would be appropriate to dispose of the matter as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

The writ petitions are accordingly disposed of. No costs.

(V.V.S.RAO,J)

13.04.2006

VGB